IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2478 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PANCHMAHALS JILLA UTKARSH MANDALI SANCHALIT - Petitioner(s)

Versus

COMMISSIONER OF HIGHER EDUCATION & 1 - Respondent(s)

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Appearance :

MR RN SHAH for Petitioner(s) : 1,MS MAMTA R VYAS for Petitioner(s) : 1,

MS MANISHA L SHAH AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 02/11/2006

ORAL JUDGMENT

1. The petitioner trust runs a High School in backward area. The petitioner received permission for starting 11th standard class in its school by order dated 24/6/1998. However, the permission is without facility of grant. The petitioner, therefore, claims grant from the Government in the present petition.

2. Learned Asst. Government Pleader pointed out that this Court by common judgment dated 5/7/2006 passed in Special Civil Application 6381/98 and connected matters had examined similar issues and had given certain directions. This Court had taken note of the decision of the Government to lay down an appropriate policy for consideration of the cases as special cases for conversion from non-grant-in-aid to grant- in-aid institutions. This Court had held that though such institutions have no vested right to insist on receiving grant, nevertheless they have a right for being considered for receipt of grant as per the Government policy. Ultimately this Court gave following directions.

“18.Under the circumstances, these petitions are disposed of by giving following directions:

i) The Government shall issue a G.R. laying down its policy for considering the cases as special cases for conversion from non-grant-in-aid to grant-in-aid institutions. Such a G.R. shall be issued along the line of the affidavit-in reply filed by Shri P.Panneervel on 8th March, 2006. This shall be done within a period of four weeks from the date of receipt of a copy of this order.

ii) In all future cases, application of interested institutions shall be considered by the competent authority applying the guidelines so laid down by the Government.

iii) While considering such applications, either accepting or rejecting, the authorities shall record and communicate the applicant its brief reasons for the conclusion.

iv) The applications of all the petitioners except those wherein the institutions have been closed

down will be considered by the Government in light of the policy that may be circulated. Such consideration shall be prospective and on the basis of the Government policy being framed. Such consideration shall be expeditious and the concerned institutions will be communicated the outcome thereof within a period of eight weeks from the date of receipt of a copy of this order.

v) Till the Government formulates its policy, the interim injunction granted by this Court by the order dated 13.2.2006 not to grant any further applications to any of the institutions shall continue. It is, however, clarified that once the Government policy is formulated as mentioned above, it will be open for the Government to consider all cases on the basis of such policy."

3. Case of the petitioner is similar. The petitioner should also receive appropriate consideration by the Government. Such consideration shall be after bearing in mind the above observations and directions.

4. For the above purpose, the present petition may be treated as representation of the petitioner. Such representation be disposed of expeditiously and preferably within a period of two months from the date of receipt of a copy of this order. It will be open for the petitioner to place additional material on record. If so done within a period of one week from service of copy of this order, the same shall also be borne in mind by the Government before taking final decision in this regard. With these directions, the petition is partially allowed and disposed of accordingly. Rule is made absolute to the above extent.

(Akil Kureshi, J.)

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